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Paper 1
DECLARED 2 July 2010

UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES

Patent Interference No. 105,757 (RT)
(From Technology Center 1600)

GENETICS INSTITUTE, LLC
(U.S. Patents 6,268,480 and 7,078,494),
Junior Party,

v.

SANOFI-AVENTIS
(U.S. Applications 11/183,599 and 11/185,230),
Senior Party.

DECLARATION - BD.R. 203¹

By RICHARD TORCZON, *Administrative Patent Judge*.

A. DECLARATION OF INTERFERENCE

An interference is declared pursuant to 35 U.S.C. 135(a). Details of the application, patent, count, and claims designated as corresponding to the count appear under headings E and F.

¹ "Bd.R. x" may be used to abbreviate "37 C.F.R. § 41.x". 69 Fed. Reg. 49960, 49961 (12 Aug. 2004).

B. DESIGNATION TO MANAGE

Administrative Patent Judge Richard Torczon has been designated to manage the interference. Bd.R. 104(a).

C. STANDING ORDER

A copy of the Standing Order (SO, Paper 2) accompanies this declaration. The Standing Order applies to this contested case.

D. CONFERENCE CALL TO SET DATES

A telephone conference call to set dates for action in this contested case is scheduled for 10:45 a.m. (Eastern) on 26 August 2010. (The Board will initiate the call.)

No later than 24 August 2010, each party shall file and serve (SO ¶¶ 10.1 & 105) a list of the motions (Bd.R. 120; Bd.R. 204; SO ¶¶ 104.2.1, 120 & 204) the party intends to file.

A sample schedule for taking action during the motion phase appears as Form 2 in the Standing Order. The parties are encouraged to discuss the schedule prior to the conference call and to agree on dates for taking action. A typical motion period lasts approximately eight (8) months. A party requesting more or less time should be prepared to justify the request.

E. THE PARTIES TO THIS INTERFERENCE

Junior Party

Patent: 6,268,480 B1, granted 31 July 2001

Title: Cytokine receptor chain

Patent: 7,078,494 B1, granted 18 July 2006

Title: Antibodies to human IL-13bc and methods of their use in inhibiting IL-13 binding

Inventors: Mary Collins of Natick, Debra Donaldson of Medford, Lori Fitz of Arlington, Tamlyn Neben of Acton, Matthew Whitters of Hudson, and Clive Wood of Boston, all of Massachusetts

Senior Party

Applications: 11/183,599, filed 15 July 2005
11/185,230, filed 18 July 2005

Title: Purified polypeptides having IL-13 receptor activity

Inventors: Daniel Caput of Avignolet-Lauragais, Pascual Ferrara of Avignolet-Lauragais, Patrick Laurent of Auterive, and Natalio Vita of Montgiscard, all of France

F. COUNTS AND CLAIMS OF THE PARTIES

Count 1

The isolated protein of 6,268,480 claim 4.

The claims of the parties are:

Genetics Institute: 6,268,480 claims 1-15 and
7,078,494 claims 1-29

Sanofi-Aventis: 11/183,599 claims 50-53 and 56-59, and
11/185,230 claims 44-47, 53, 55-58 and 62-65

The claims corresponding to Count 1:

Genetics Institute: all but 6,268,480 claims 2, 3, 7-9 and 14

Sanofi-Aventis: all but 11/185,230 claim 46

The benefit accorded for Count 1:

Genetics Institute: 09/714,792, file 16 November 2000;
08/846,344, filed 30 April 1997; and
08/609,572, filed 1 March 1996.

Sanofi-Aventis: 11/185,230, filed 18 July 2005;
11/183,599, filed 15 July 2005;
09/077,817, filed 14 September 1998;

PCT/FR96/01756, filed 7 November 1996; and
FR 95/14,424, filed 6 December 1995.

G. HEADING TO BE USED ON PAPERS;
EXHIBIT NUMBERS

Addendum 1 provides the heading that shall be used on all papers
filed in the contested case. See SO ¶ 106.1.1.

The ranges of exhibit numbers are assigned as follows
(Bd.R. 154(c)(1); SO ¶ 154.2.1):

Sanofi-Aventis: 1001-1999.

Genetics Institute: 2001-2999.

H. ORDER FORM FOR REQUESTING FILE COPIES

When requesting copies of files, use of Addendum 2 (SO Form 4) will
greatly expedite processing of the request. Please attach a copy of Parts E
and F of this DECLARATION with a hand-drawn circle around the patents
and applications for which a copy of a file wrapper is requested.

Attachment: None.²

Enclosure: Copy of Standing Order (Paper 2)

² For a United States patent or published application listed in this paper, see
<http://patft.uspto.gov/>; see also <http://portal.uspto.gov/external/portal/pair> for
prosecution histories available to the public.

cc:

Lawrence S. Perry, Fitzpatrick, Cella, Harper & Scinto, of New York City,
New York for junior party.

William C. Coppola, Sanofi-Aventis U.S. LLC, of Bridgewater, New Jersey
for senior party.

ADDENDUM 1: PAPER HEADING

Filed on behalf of: [Name of Party] Paper No. [Leave blank]

By: [Name of lead counsel]
Name of backup counsel
Street address
City, State, and ZIP Code
Tel:
Fax:

]

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TITLE OF PAPER

ADDENDUM 2: FILE COPY REQUEST
Patent Interference No. 105757

Attach a copy of sections E and F of this declaration to this request.
On the copy, circle each patent and application that you are requesting.
Include the information indicated below to facilitate processing of this request.

Charge fees to:

1. USPTO Deposit Account No. _____

2. Complete delivery address, including street, city, state, ZIP code:

3. Telephone, including area code: _____

